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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

12-CR-45 (RJS)

5 JERMAINE DORE,

6 Defendant.

Sentencing

7 -----x

8 New York, N.Y.

9 August 2, 2013

2:45 p.m.

10 Before:

11 HON. RICHARD J. SULLIVAN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

United States Attorney for the

16 Southern District of New York

AMY R. LESTER

17 JESSICA A. MASELLA

MICHAEL D. MAIMIN

18 Assistant United States Attorneys

19 ALICE L. FONTIER, ESQ.

Attorney for Defendant

20
21 ALSO PRESENT: ANTHONY MELCHIORRI, ATF Agent

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(In open court; case called)

THE CLERK: For the government?

MS. LESTER: Good afternoon, your Honor. Amy Lester for the government. With me at counsel table are assistant United States attorneys Jessica Masella and Michael Maimin, as well as Special Agent Anthony Melchiorri with the ATF.

THE COURT: Yes. All right. Good afternoon to each of you.

And for the defendant?

MS. FONTIER: Good afternoon, your Honor. Alice Fontier on behalf of Jermaine Dore, who is seated next to me.

THE COURT: All right. Ms. Fontier, Mr. Dore, good afternoon.

We are here for sentencing. This is a case that went to trial. The jury returned a guilty verdict on seven counts involving Mr. Dore. Two of them involved mandatory consecutive sentences. So the sentences required by the counts are very, very high. We'll talk about all that in a moment.

What I want to do now is just make sure that I have everything that's been submitted in connection with sentencing. If something is missing, then of course let me know.

I have first of all received the July 26, 2013 presentence report from the probation department. I've also reviewed Ms. Fontier's July 24th submission, which is an 11-page, double-spaced submission. I have the government's

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1 sentencing submission, which is dated July 29th and it is a
2 12-page, double-spaced submission. Just today or maybe it was
3 last night I received the proposed order of restitution from
4 the government, which lists the names of various victims of the
5 robberies that were referenced at the trial. And that's all I
6 have really that's related to sentencing. I guess I had a
7 couple things from Mr. Dore that related to getting documents
8 in preparation for trial. I issued an order on that back on
9 July 7th. They're not really relevant to the sentencing
10 determination to be made today, although I guess they're
11 technically connected to sentencing.

12 So is there anything else I've overlooked that should
13 be part of the record that I haven't mentioned? Ms. Lester?

14 MS. LESTER: No, not from the government, your Honor.

15 THE COURT: Ms. Fontier?

16 MS. FONTIER: No, that's everything, your Honor.

17 THE COURT: Well, then let's begin with the
18 presentence report. Ms. Fontier, you've received a copy of the
19 presentence report, the final presentence report?

20 MS. FONTIER: Yes, your Honor.

21 THE COURT: And you've reviewed it with Mr. Dore?

22 MS. FONTIER: I have, your Honor.

23 THE COURT: And do you have any objections to what's
24 in the report?

25 MS. FONTIER: Your Honor, as the court is aware, in my

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1 sentencing memorandum I submitted detailed objections to the
2 presentence report, which were also submitted to the probation
3 department.

4 THE COURT: Right.

5 MS. FONTIER: In the final report they have resolved I
6 believe all but one of the objections that I submitted. The
7 only objection which I believe remains outstanding at this
8 point is that I objected to what was paragraph 84, is now
9 paragraph 83, which increased the offense level for that count
10 for use of a dangerous weapon for the October 11th, 2011
11 incident on the basis that a bat was used to hit the car. I
12 couldn't find any authority for stating that using an object
13 against another object is sufficient to sustain a four-point
14 increase, so I had asked that -- I had objected to that
15 increase. The probation department still feels that it is
16 appropriate. I thought that it should only be a three-level
17 increase for brandishing of a weapon, but that is an unresolved
18 objection. It's the only one, I believe.

19 THE COURT: And it will have no impact at all on the
20 Sentencing Guidelines calculation, right?

21 MS. FONTIER: None whatsoever.

22 THE COURT: So I think I can probably just leave it
23 unresolved because I don't think the facts are in dispute.
24 It's just a technical application of the Sentencing Guidelines
25 which, at the end of the day, will not have any impact on the

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1 ultimate guidelines calculation. So that's what I'm inclined
2 to do. You have no objection to that, do you?

3 MS. FONTIER: I do not, your Honor.

4 THE COURT: All right. Let me see if the government
5 has received a copy of the final resentence report.

6 MS. LESTER: Yes, we have, your Honor.

7 THE COURT: And do you agree with it? Do you have any
8 objections to what's in the report?

9 MS. LESTER: No, your Honor. However, as a technical
10 matter, I just wanted to point out that under Rule 32,
11 specifically subsection (e)(2), the initial presentence report
12 must normally be received by the defense, in fact by all the
13 parties, 35 days prior to sentencing. In this case the initial
14 presentence report was disclosed on July 11th, so that was
15 not within the amount of time under the rule. The defendant
16 can waive that period of time if he wishes to be sentenced
17 sooner, so the government would just ask that the defendant
18 formally waive that time period.

19 THE COURT: All right. Do you agree that you didn't
20 get the initial report until July 11th, on or about?

21 MS. FONTIER: Yes, your Honor. And Mr. Dore made it
22 quite clear to me that he would like to keep the sentencing
23 date of today.

24 THE COURT: All right.

25 MS. FONTIER: So to the extent that it needs to be

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1 waived on the record, it is so waived.

2 THE COURT: Okay. That's accurate, Mr. Dore? You
3 want to go forward today?

4 THE DEFENDANT: Yes, sir.

5 THE COURT: I'd give you more time if you want it, but
6 if you don't think it's necessary, certainly I'll respect your
7 wishes on that. So you're comfortable with going forward
8 today?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: All right. So I think the record now is
11 clear.

12 All right. Let's then talk a little bit about the
13 Sentencing Guidelines.

14 Mr. Dore, there are a number of factors that a court
15 has to consider in deciding the appropriate sentence in the
16 case. One those factors is what's called the United States
17 Sentencing Guidelines, which I know you're somewhat familiar
18 with. I'm sure Ms. Fontier has discussed them with you. The
19 guidelines are a big book that is put out by a commission of
20 judges and lawyers and other experts in the field, and it's a
21 book that's designed to give guidance to judges. The rules can
22 be quite technical. This book is about 500 pages long. So
23 there's a lot of technical aspects of it. We're not going to
24 go over the book in tremendous detail, but the way it works is
25 that a judge is directed to apply the facts of a particular

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1 case to the book, and so for every crime or type of crime,
2 there's a chapter or a subchapter in the book. The judge then
3 makes findings of fact and, based on what's in the book, will
4 assign points, adding, subtracting as the judge goes, and
5 ultimately will come up with a number. We're going to spend a
6 few minutes focusing on the guidelines and how they apply in
7 this case. There are other factors that also have to be
8 considered, but that's where we're going to start.

9 So the guidelines calculation is set forth in the
10 presentence report beginning at page 11, all right? And other
11 than that one calculation that was disputed by Ms. Fontier, it
12 seems that the parties are in agreement as to how the
13 guidelines apply here. There are multiple robberies that were
14 referenced in the trial. There's a conspiracy charge and then
15 substantive charges of robbery. And then there's various gun
16 counts. We're right now talking about the robbery counts, and
17 then we'll be talking about Count Seven, which is what we've I
18 guess been referring to as a weapons charge but a weapons crime
19 that resulted in death. So we'll talk about that in a moment.
20 But each of the robberies is treated as a separate offense, and
21 so the court does a separate guidelines calculation for each
22 robbery, and again, I don't think there's any dispute about how
23 the guidelines apply to those robberies, with the one
24 exception. Basically each of the robberies has a base offense
25 level of 20. There are enhancements for certain of the

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1 robberies based on the amount that was taken by force in the
2 robbery and whether or not there was force used or injuries
3 sustained during the course of the robbery. With the exception
4 of paragraph 83, the parties are in agreement and I'm in
5 agreement with how the guidelines apply to the robbery counts.
6 I guess if I have to choose, I'd probably defer in favor of the
7 defendant on paragraph 83 and not apply the two-level
8 enhancement, but as I said before, it wouldn't make any
9 difference here for purposes of the ultimate guidelines
10 calculation. So for the 12 robbery groups, the guidelines will
11 be what's set forth in the presentence report except with
12 respect to Group 6. I guess on that I'll knock down two, so it
13 will be 25.

14 Now we next talk about what we're calling the murder
15 count. That has been calculated as a level of 43, because a
16 death resulted, and so there's no dispute about that,
17 Ms. Fontier?

18 MS. FONTIER: No, your Honor.

19 THE COURT: So that kind of knocks all the others out
20 of the box, because 43 is so much higher than the others, which
21 are either 28 or less than 28, so ultimately, the others have
22 ultimately no impact on the guidelines, so the guidelines are
23 level 43. When you do the calculation for all the 12 groups
24 that are implicated, you still come up with level 43.

25 So level 43, according to this book, is life,

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1 mandatory life, according to the guidelines manual. It's not
2 the only thing we consider, but that's a factor that the court
3 has to consider.

4 In terms of criminal history, I guess I should note, I
5 don't think there's any dispute, that Mr. Dore has four
6 criminal history points based on three prior convictions. He's
7 in criminal history category III. It doesn't alter the life
8 range that's required under level 43, but that's the criminal
9 history category.

10 Okay. Then we have two counts that are mandatory
11 consecutive sentences, which require that a sentence imposed
12 for those counts, the two gun counts, would be 5 years for the
13 first and 25 years consecutive for the second, which means I'd
14 impose a sentence on the robberies and the murder and then
15 mandatory 5 years on the first gun count and a mandatory 25
16 consecutive on the second gun count, so it's basically a
17 30-year mandatory consecutive sentence on top of what I impose
18 for the murder. So we're talking very high numbers, but that
19 is what the guidelines require and what the mandatory
20 consecutive sentence requires, what the statute requires for
21 cases involving gun offenses like this one.

22 All right. Is there any disagreement with that, the
23 30-year mandatory consecutive sentence on top of a sentence for
24 Count Seven and the robbery counts?

25 MS. LESTER: No, your Honor.

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1 MS. FONTIER: No, your Honor.

2 THE COURT: All right. So that's kind of the ballpark
3 we're in, Mr. Dore.

4 Now there are other factors that I have to consider
5 with respect to the first sentence, not the mandatory. I can't
6 do anything about the mandatory consecutives, but with respect
7 to the first sentence on the robberies and the murder charge,
8 in addition to the guidelines, I have to consider your own
9 personal history, the facts and circumstances of your life from
10 your birth to your childhood, your youth, your work history,
11 your educational history, your criminal history, your family
12 circumstances. All the things that make you who you are, I
13 have to look at those things.

14 I also have to consider the facts and circumstances of
15 these crimes. This is a very serious crime. And it's not just
16 the name of the crime, robbery, or possession of firearm, or
17 murder. It's the actual details, the facts, what you did, what
18 others did or for how long a period of time, how victims were
19 affected and harmed. All of those things have to come into the
20 calculus. And I have to impose a sentence that's going to
21 reflect both the seriousness of these crimes and that's also
22 going to promote respect for the law and provide a just
23 punishment for the crimes.

24 So I have to also consider the need to deter or
25 discourage you from committing crimes in the future and others

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1 from committing crimes in the future, others who might learn of
2 your sentence and from that learn a lesson about it, say, I'm
3 not going to carry a gun, I'm not going to engage in this kind
4 of activity because I heard what happened to Mr. Dore. That's
5 something that's a legitimate objective of sentencing, and
6 courts have to take that into account.

7 A couple of other factors courts have to consider is
8 to consider your own needs while you're in custody, so to the
9 extent you have medical needs or mental health needs, substance
10 abuse treatment needs, the court should consider that and make
11 those a part of the sentence.

12 In addition, I have to make sure that the sentence I
13 impose on you is not wildly out of whack or is not wildly
14 different from the sentence imposed on other people who are
15 similarly situated to you, who engaged in similar crimes and
16 have been sentenced for similar crimes.

17 And weighing those different factors, I have to come
18 up with a sentence that I think is appropriate to meet each of
19 those objectives, even though, candidly, sometimes the
20 objectives can be in tension with each other. Sometimes some
21 of those factors I just mentioned can be argued in favor of
22 leniency and others can be argued in favor of a harsher
23 sentence. So my job is to balance those things.

24 What we're going to do now is I'm going to hear from
25 Ms. Fontier. I'll allow her to speak to all these different

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1 factors. She did in her papers, in her submission to me, but
2 I'll give her the opportunity to make those points here in
3 court. I'll then hear from Ms. Lester, who will have a chance
4 to respond, to make arguments, again, relating to the same
5 factors. And then after I've heard from them, I will hear from
6 you if you would like to address the court. You don't have to
7 speak, but you'd be welcome to and I would allow you to.

8 Now can I ask, are there any victims here who wish to
9 be heard?

10 MS. LESTER: No, your Honor. The victims are aware of
11 the sentencing date, but there are no victims here who wish to
12 be heard.

13 THE COURT: All right. So victims also have a right
14 to be heard. They're not required to be heard, but if they
15 want to, then I would give them a chance to speak as well.
16 Obviously I have a number of people in the courtroom. Some I
17 recognize, some I don't. But just so we're clear, are there
18 any victims or those who believe themselves to be victims who
19 are here and who wish to be heard before I impose sentence?

20 No. All right.

21 Okay. So Ms. Fontier, let's begin with you. I've
22 read your submission. Thank you. It was thoughtful. But
23 anything else you'd like to say, I'm happy to hear you.

24 MS. FONTIER: Thank you, your Honor, and I certainly
25 won't repeat what I've placed in my sentencing submission.

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1 Your Honor, I don't know if you've actually been to
2 the attorney visiting rooms in MDC or MCC.

3 THE COURT: I have, yes.

4 MS. FONTIER: So your Honor's aware that they're just
5 small rooms where you sit with just you and your client, and
6 over the last year and a half, I've spent a great deal of time
7 in those small rooms just with Mr. Dore. Many, many hours that
8 I've spent with him. And in that time I've gotten to know him.
9 I've gotten to know him quite well. Now, your Honor, when I
10 read through the government's sentencing memorandum, I thought
11 to myself, this is not someone who I would like to meet. This
12 is someone who I would be afraid to be alone with. The
13 portrait of the man in the government's memo is a cold,
14 callous, violent person. And that portrait, the portrait of
15 Mr. Dore that is in that memo, is totally incongruous with the
16 man that I know, the man that I've sat for many hours with.
17 The Jermaine Dore that I know is warm, polite, he has treated
18 me with nothing but the utmost respect. Quite frankly, I think
19 of him as a friend of mine, while he also, your Honor, has
20 family that he loves and that love him in return. His brother
21 and his cousin are present here today. His brother you may
22 recognize because he was present for --

23 THE COURT: Yes.

24 MS. FONTIER: -- the vast majority of the trial. They
25 are unwavering in their support of him. His sister also

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1 remains entirely supportive. I spoke to her I believe on
2 Monday. She was hoping to be able to get out of work and be
3 here today as well, and I'm sure that she is disappointed that
4 she cannot be here to show the court her support for Mr. Dore
5 because it is still there. They love him very much and he
6 loves them.

7 Your Honor, he also has a young daughter, about 3
8 years old. It breaks Mr. Dore's heart -- he has expressed this
9 to me -- that she will grow up without a father, that she will
10 never know him. And your Honor, I'm telling you these things
11 about Mr. Dore not to lessen the seriousness of the offenses
12 for which he has been convicted but to tell you that Mr. Dore
13 is more than just these convictions. He's a father, he's a
14 brother, he's a friend. And your Honor, I'm asking you to
15 impose a sentence that is something less than a life sentence.

16 Now I asked for 30 years in the sentencing papers, and
17 I believe that that is a very substantial sentence. Mr. Dore
18 is just 26 years old. It's longer than he's been alive.

19 THE COURT: I understand that, but you're asking me to
20 sentence him to zero on the robberies and the murder and then
21 just impose consecutive sentences on the weapons, right?

22 MS. FONTIER: Yes, your Honor, and I understand that
23 that is not a likely sentence or something that the court will
24 find sufficient.

25 THE COURT: Well, I'm supposed to impose the sentence

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1 that I believe appropriate on the nonmandatory consecutive
2 counts and then allow the mandatory consecutives to do what
3 they do, whether I agree or don't agree with them. Sometimes I
4 think the mandatory minimums or mandatory consecutives are not
5 appropriate, but that's not for me to decide. But you agree
6 that that's the proper way for me to approach this.

7 MS. FONTIER: That's the correct procedural way, yes,
8 your Honor, but I do think that ultimately, and what is, you
9 know, the overwhelming goal of sentencing is that at the end of
10 this, your Honor proposes -- imposes sentence that is
11 sufficient but not greater than necessary to meet the needs of
12 justice. Your Honor, I ask this question: Does justice
13 require that this man, who is a father, a brother, a friend,
14 does justice require that he die in jail? Or could the needs
15 of justice be met by allowing him the one human dignity of
16 being released at an elderly age and dying a free man? I think
17 there is some number less than life that is sufficient but not
18 greater than necessary, your Honor.

19 THE COURT: Thank you.

20 MS. FONTIER: Thank you.

21 THE COURT: Ms. Lester?

22 MS. LESTER: Your Honor, Ms. Fontier is correct that
23 her description of the defendant could not be more different
24 than the description of the defendant in the government's
25 submission. But the government's description of the defendant

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1 is based on the testimony at the trial of people who knew the
2 defendant, who committed crimes with him, specifically Patrick
3 Taylor and Janiel Brown, and the testimony of the victims who
4 were brutally robbed by Mr. Dore and who, time and time again,
5 as we outlined in our sentencing submission, described someone
6 who viciously attacked them, physically hurting them, in some
7 cases causing them to be hospitalized, or terrorized them with
8 weapons, whether it be a knife or a gun. And this defendant,
9 because of his central role in this violent crew that committed
10 more than ten robberies over a very short period of time, and
11 because of his remorseless actions in the sense that he
12 committed robbery after robbery and, specifically on
13 December 12th of 2011, committed two robberies in one day,
14 the first of which resulted in a murder and then a few short
15 hours later decided to go out and commit another armed robbery,
16 this is a man whose conduct would not have stopped but for the
17 fact that he was arrested in this case. Indeed, since the day
18 of the murder, he committed at least two other robberies that
19 were proven at trial. So clearly this is not someone who would
20 have stopped his illegal conduct but for the interference of
21 law enforcement.

22 For those reasons, mainly the nature and circumstances
23 of the violent offenses in this case, the seriousness of those
24 offenses, especially the murder, and Mr. Dore's own history and
25 characteristics in which, again, he's shown no remorse and

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1 no -- given no explanation for his conduct, we believe that a
2 sentence of life imprisonment followed by the mandatory minimum
3 term of 30 years, which must run consecutive, is appropriate in
4 this case. We believe that this sentence will promote respect
5 for the law and deterrence for the general public. It will
6 make someone think twice before they make the decision to join
7 a crew like this and carry a gun and get caught up in a series
8 of acts that end up in the result -- resulting in someone
9 else's death. We believe that this sentence is appropriate in
10 terms of protecting the public from Mr. Dore because clearly
11 he's shown that he presents a grave danger to society and the
12 public does need to be protected from him.

13 So for all these reasons, the government asks that the
14 court impose the guidelines sentence of life imprisonment on
15 Counts One, Three, Five, and Seven, and followed by the
16 mandatory minimum term of 30 years on Counts Two and Four.

17 THE COURT: Wait. I think One, Three, and Five have
18 20-year maximums, right?

19 MS. LESTER: Yes, your Honor, they do. The guideline
20 is 20 years, that's correct.

21 THE COURT: All right. Ms. Fontier, anything you want
22 to say in response?

23 MS. FONTIER: No. Thank you, your Honor.

24 THE COURT: And Mr. Dore, as I said, you have the
25 right to address the court if you'd like to but you're not

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1 required to, but if you wish to, now is the time to do it.

2 MS. FONTIER: Mr. Dore is indicating that he does not
3 wish to make a statement, your Honor.

4 THE COURT: That's fine. I understand.

5 All right. Well, let me state the sentence I intend
6 to impose and my reasons for it, and then when I have finished,
7 I will ask the lawyers if there's any reason why I can't impose
8 that sentence under the law, and if there is no impediment
9 legally to imposing the sentence, then I will go forward
10 formally with the sentence.

11 Look, this is a tragic day. I look out at Mr. Dore's
12 family and at Mr. Dore. I listened to what Ms. Fontier has
13 said, and I don't disagree that there's more to Mr. Dore than
14 these crimes. I think that's obvious. Obviously there are
15 people who care about him, people who are suffering to see him
16 in the situation that he's in. Mr. Dore strikes me as a person
17 of intelligence and ability, who has a lot to offer, and so
18 that I think is a given, and I start with that premise. Of
19 course that's not the only thing that I have to consider, but I
20 do think it's worth at least acknowledging that this is a human
21 being and a human being who is complicated, like most human
22 beings, and has good qualities. I don't doubt that.

23 Of course I have to balance that with the facts of
24 these crimes, and these crimes are very serious and in some
25 cases unspeakable violence and numerous and cruel in the way

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1 they were executed. I presided over the trial so I heard many
2 of the victims speak in their testimony about what they endured
3 physically and psychologically as a result of these crimes, and
4 it's very clear that this was a conspiracy, this was a group
5 that preyed on people and used fear and threats of violence and
6 actual violence to get money, ultimately not even a tremendous
7 amount of money, but the cruelty and the violent nature of this
8 group was just so obvious, and to listen to the victims speak,
9 to just hear how there was something so wrong, so morally
10 bankrupt about what was going on in this case by Mr. Dore and
11 the others. Ms. Lester talks about the situation where,
12 shortly after the murder, the same day as the individual was
13 killed during the course of a robbery, Mr. Dore's basically
14 signing up to just do another one. And so certainly during the
15 life of this conspiracy there was no remorse. Certainly during
16 the life of this conspiracy there was no thought about
17 stopping. It seemed that this was a way of life, and it was
18 understood that violence comes with the territory. The murder
19 is the most serious of them, but the others, the only reason
20 they didn't result in murders is because either the victims
21 didn't do anything foolish or because the conspirators were
22 more careful on those occasions, but they could have easily
23 resulted in somebody being killed. So these are truly violent
24 crimes that have tremendous, you know, truly serious
25 consequences. A man lost his life. He's not here today,

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1 obviously. His family is not here today. We don't have anyone
2 speaking on behalf of the victim, but that victim presumably
3 had a family and had talents and things to offer that were
4 snuffed out in the course of that robbery.

5 So look, in the course of my life I have certainly
6 seen crimes worse than these, but not many, and I think the
7 sentence imposed here has to be very harsh to send a message
8 that we as a society just don't tolerate this, can't tolerate
9 this, and that we have to protect people living in society.

10 Ms. Fontier has asked for a sentence of effectively
11 zero on the first counts, to be followed by the 30-year
12 mandatory consecutive. I mean, I think there's no way I can
13 even consider that. That just strikes me as an immoral
14 sentence. I think the real issue for me is whether a life
15 sentence on Counts One, Three, Five, and Seven, as the
16 guidelines contemplate, is appropriate, or whether something
17 lesser would be consistent with the objectives of sentencing.
18 I am persuaded that something less than life would be
19 appropriate here, but not much less, because it's something
20 that I think can't be so much less that it just sends the wrong
21 message, that the court is, frankly, just not that serious
22 about what he's telling you.

23 So the sentence I intend to impose, in light of all
24 these different factors, after a great deal of thought, is a
25 sentence of 35 years on Count Seven, to be served concurrently

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1 with 20-year sentences on Counts One, Three, and Five, which
2 are the maximums for those, to be followed then by a 5-year
3 mandatory consecutive term on Count Two and a 25-year mandatory
4 consecutive term on Count Four. So the whole thing comes to 35
5 years plus 30 years mandatory consecutive. That may ultimately
6 be a life sentence ultimately, but as a practical matter,
7 because of the mandatory consecutives, although one can rail
8 against them in certain circumstances, I think this is probably
9 not the best example of the abuse of mandatory consecutive
10 sentences, given the nature of the crimes and the repetitive
11 criminal activity that went on here.

12 So that's the sentence I intend to impose.

13 I intend to impose a term of supervised release of
14 three years on Counts One, Three, and Five, five years on the
15 others, so that's probably academic.

16 I'm not going to impose a fine.

17 The government's not seeking forfeiture. But I think
18 restitution is appropriate. But you didn't speak to that,
19 Ms. Fontier. Do you have any objection to the restitution
20 order that was proposed? I'm inclined to order restitution for
21 the amount that is set forth in the government's proposed
22 restitution order.

23 MS. FONTIER: Your Honor, I've reviewed the order that
24 was provided at the beginning of this appearance. I don't have
25 any specific objections to the language or the amount or what

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1 was stated at trial. Obviously Mr. Dore went to trial and
2 maintains his innocence so we're not consenting to it, but the
3 actual specifics of it, no, there's no objection.

4 THE COURT: No specific objection. And the government
5 has nothing for the decedent or the decedent's family, which I
6 think they would be entitled to some restitution, but there's
7 nothing there, right?

8 MS. LESTER: That's correct, your Honor.

9 THE COURT: Okay. All right. That's the sentence I
10 intend to impose. Is there any legal impediment to my imposing
11 that sentence, Ms. Fontier?

12 MS. FONTIER: Not that I'm aware of, no.

13 THE COURT: Ms. Lester?

14 MS. LESTER: No, your Honor. The court did not
15 mention the special assessment, but we believe the court also
16 intends to impose that.

17 THE COURT: Oh, yes, \$700 special assessment. Thank
18 you.

19 All right. Mr. Dore, I'm going to ask you to stand
20 while I formally impose sentence.

21 Mr. Dore, having presided at your trial where the jury
22 verdict returned a guilty verdict on Counts One through Seven,
23 I sentence you as follows:

24 I sentence you to a term of incarceration of 35 years
25 on Count Seven, to run concurrent with sentences of 20 years on

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1 Counts One, Three, and Five, to be followed by a 5-year
2 mandatory consecutive sentence on Count Two, which is then to
3 be followed by a second mandatory consecutive sentence, this
4 time of 25 years, on Count Four, for a total of 35 years plus
5 30 years mandatory consecutive.

6 In addition, I'm going to impose a term of supervised
7 release of three years on Counts One, Three, and Five, five
8 years on Counts Two, Four, Six, and Seven.

9 I'm going to impose a special assessment of \$700.

10 I will order restitution in the amount of \$85,000 as
11 set forth in the proposed order of restitution provided by the
12 government.

13 Your term of supervised release, if you live long
14 enough to be released, will include the following mandatory,
15 standard, and special conditions:

16 You shall not commit another federal, state, or local
17 crime; you shall not illegally possess a controlled substance;
18 you shall not possess a firearm or destructive device of any
19 kind; you shall refrain from the unlawful use of any controlled
20 substance; you shall cooperate in the collection of DNA as
21 directed by your probation officer.

22 There are 13 standard conditions which will be imposed
23 in this case, as they are in virtually all cases involving
24 supervised release.

25 I will also add the following special conditions:

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1 First, that you shall obey the immigration laws and
2 comply with the directives of immigration authorities.

3 Second, that you will report to the nearest probation
4 office within 24 hours of your release from custody, unless
5 you're released on a holiday or weekend, in which case you'll
6 report the next business day.

7 You are also to be supervised in the district of your
8 residence, which I guess when you get out, I'm not sure where
9 that will be, probably in the Bronx, though it's possible you'd
10 be deported. But if you're still here, then you should report
11 to the building next door, 500 Pearl, all right?

12 All right. Are there open counts?

13 MS. LESTER: Yes, your Honor. The government would
14 move to dismiss the underlying indictment in this case --
15 underlying indictments.

16 THE COURT: I will dismiss the underlying indictments.

17 Are there any recommendations you'd like me to make,
18 Ms. Fontier, with respect to where Mr. Dore should be housed or
19 anything else?

20 MS. FONTIER: As close to New York as possible so that
21 his family can continue to visit him, your Honor.

22 THE COURT: All right. Mr. Dore, I can't order but I
23 can recommend, and I will recommend, that you be housed in a
24 facility by the Bureau of Prisons as close to the New York area
25 as possible so that your friends and family members can visit

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1 you as much as possible. As I said, I can't order that. The
2 Bureau of Prisons has a lot of demands on it, but hopefully
3 they'll be able to manage that. I'll recommend it in as strong
4 as possible terms.

5 Now I should advise you that you have a right to
6 appeal this sentence if you wish. So if you wish to appeal,
7 then you would need to file a notice of appeal within two
8 weeks. So talk to Ms. Fontier about that. She'll assist you
9 in filing a notice of appeal. The briefs and everything else
10 will come later, but the notice of appeal is something that has
11 to be done in a timely manner. So she'll assist you with that.

12 Is there anything else that I've overlooked that we
13 should discuss today?

14 MS. LESTER: No, your Honor. Thank you.

15 THE COURT: Ms. Fontier?

16 MS. FONTIER: Your Honor, I'm not -- you may have said
17 it but -- and I think ultimately it makes no real difference,
18 but I wasn't quite clear on whether the terms of supervised
19 release are consecutive or concurrent or --

20 THE COURT: They're concurrent. The terms of
21 supervised release are all concurrent.

22 MS. FONTIER: Okay. Thank you.

23 THE COURT: By law they're required to be. All right.

24 Okay. So let me thank the marshals, let me thank the
25 court reporter, and thank you all for being here today. It's a

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1 sad day, tragic day, but I imposed the sentence that I felt was
2 appropriate in light of all the circumstances.

3 So Mr. Dore, I wish you the best of luck. I
4 understand you have family and friends who really do care about
5 you, and I hope you continue to maintain those relationships
6 while you're in custody. Good luck to you.

7 THE DEFENDANT: Thank you, your Honor.

8 THE COURT: Thank you.

9 MS. FONTIER: Thank you, Judge.

10 THE COURT: Okay. Thank you.

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